

**PROVIDER INFORMATION**  
**IMPLEMENTATION OF RCW 70.95M.115 (ESSB 5305)**  
**Limiting the Use of Mercury-Containing Vaccines**  
**January 2007**

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**What does the law require?**

Effective July 1, 2007, Revised Code of Washington 70.95M.115 (ESSB 5305) provides that:

- o a person who is known to be pregnant or who is under three years of age shall not be vaccinated with a mercury-containing vaccine or injected with a mercury-containing product that contains more than 0.5 micrograms of mercury per 0.5 milliliter dose, except if it is an influenza vaccine that contains no more than 1.0 microgram of mercury per 0.5 milliliter dose; and
- o the secretary of the Department of Health may suspend the bill's mercury limits "upon declaration of a public health emergency...for the duration of the emergency."

The law does not apply to persons who are 3 years of age and older or women who are not pregnant.

**How does the law affect public purchase of vaccine?**

Since 2005, all routinely recommended vaccines for children up to 18 years of age purchased by the Department of Health are mercury-free, including influenza vaccine. Few vaccines are now manufactured with levels of mercury, known as thimerosal<sup>1</sup>, that exceed the limits identified in the statute. Current trends indicate thimerosal is likely to be phased out of vaccine manufacturing in the near future.

**Which vaccines do not meet the limitations of the law?**

At this point, only the following three vaccines do not meet the limitations of the law:

- o multi-dose vials of influenza vaccines (although there are influenza vaccines that are mercury-free);
- o Menomune, a meningococcal vaccine that protects against meningitis; and
- o a vaccine that protects against Japanese Encephalitis.

Menomune is licensed for children two years of age and older. There is another meningococcal vaccine, Menactra, which does not contain thimerosal; however, it is licensed only for children 11 years and older. Under the law, Menomune vaccine can be used to vaccinate children younger than three years of age. Neither vaccine can be used to vaccinate children younger than three years of age.

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<sup>1</sup> For more information on thimerosal, see: Washington State Department of Health: [http://www.doh.wa.gov/cfh/Immunize/documents/thimerosal\\_faqs.pdf](http://www.doh.wa.gov/cfh/Immunize/documents/thimerosal_faqs.pdf); Children's Hospital of Philadelphia: <http://www.chop.edu/consumer/jsp/division/generic.jsp?id=75751> or Centers for Disease Control and Preventing: <http://www.cdc.gov/nip/vacsafe/concerns/thimerosal/faqs-thimerosal.htm>.

The Japanese Encephalitis vaccine is recommended for those traveling to certain countries in Asia where the disease is endemic and the traveler will be staying longer than one month. Under the law, children under three and pregnant women cannot be vaccinated in Washington State with this vaccine.

It is possible that new vaccines could become available that exceed the thimerosal content allowed under this law. However, until these become available, it is impossible to speculate on the impacts of the law on these vaccines.

### What happens to the law in the event of an emergency?

In the event of an emergency, for which a vaccine is needed but there is no vaccine available that meets the limitations of the law, the law allows the secretary of the Department of Health to suspend the bill's mercury limits "upon declaration of a public health emergency...for the duration of the emergency." For example, in the case of a pandemic influenza, the thimerosal content limitations of the law could be waived in order to protect pregnant women and children under age three.

### What should providers do to plan for compliance with the law?

Providers should purchase mercury-free influenza vaccine for pregnant patients and patients under three years of age. To prepare, providers should:

- o estimate the number of pregnant women and those younger than three years of age you expect to vaccinate during the influenza season, and
- o use the estimates to plan for influenza vaccine pre-booking process in January of each year.

After July 1, 2007 in Washington State (and unless a public health emergency has been declared and allows for vaccination), **providers will be breaking the law if they vaccinate:**

- o pregnant women or children under three years of age with the currently available Japanese Encephalitis vaccine,
- o children under three years of age with Menomune, or
- o pregnant women or children under three years of age with influenza vaccine from multi-dose vials or influenza vaccine that contains thimerosal above the allowable limits.